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22 FEB 2008

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In re Application of:  
SUGIYAMA, Kazuhiko, et al.  
U.S. Application No.: 10/561,514  
PCT No.: PCT/JP2004/008117  
International Filing Date: 10 June 2004  
Priority Date: 20 June 2003  
Attorney Docket No.: SUG10158

For: DEVICE AND METHOD FOR  
SUPPLYING GAS WHILE  
DIVIDING TO CHAMBER FROM  
GAS SUPPLYING FACILITY  
EQUIPPED WITH FLOW  
CHAMBER

DECISION ON PETITION  
(37 CFR 1.181)

This decision is issued in response to the "Petition (B) For Reconsideration Of Holding Of Abandonment, Or Alternatively, To Revive Application Pursuant To 37 CFR 1.137" filed 20 December 2007, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 10 June 2004, applicants filed international application PCT/JP2004/008117. The international application claimed a priority date of 20 June 2003, and it designated the United States. On 29 December 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 December 2005.

On 20 December 2005, applicants filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee and an English translation of the international application.

On 31 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 13 March 2007, applicants filed a "Response To Notification Of Missing Requirements" indicating that an executed declaration was included with the original application materials filed 20 December 2005.

On 29 November 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 20 December 2007, applicants filed the petition considered herein. The petition again asserts that, on 20 December 2005, applicants filed an executed declaration and that the subsequent mailing of the Notification Of Missing Requirements and a Notification of Abandonment were therefore improper. Accompanying the present petition is a copy of the executed declaration and a return postcard itemizing the declaration and bearing a USPTO receipt stamp dated 20 December 2005. The petition also notes that a timely response to the Notification Of Missing Requirements was filed on 13 March 2007.

### DISCUSSION

As noted above, the present petition includes a copy of the executed declaration purportedly filed on 20 December 2005, as well as a copy of the return postcard that itemizes the declaration and bears a USPTO receipt stamp dated 20 December 2005. Based on the statements in the present petition and the attached return postcard, it is concluded that the materials filed on 20 December 2005 to initiate the present national stage application included the executed declaration attached to the present petition. This declaration is in compliance with 37 CFR 1.497, and it was filed prior to the expiration of thirty months from the priority date.

The Notification of Missing Requirements mailed 31 January 2007, based as it was on applicants' purported failure to file an oath or declaration prior to the expiration of thirty months from the priority date, is appropriately vacated.

The Notification of Abandonment mailed 29 November 2007, based as it was on applicant's purported failure to file a response to the now vacated Notification of Missing Requirements, is also appropriately vacated.

### CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The declaration accompanying the present petition is considered to have been filed on 20 December 2005, prior to the expiration of thirty months from the priority date.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 31 January 2007 and the Notification of Abandonment (Form PCT/DO/EO/909) mailed 29 November 2007 are hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 December 2005.

A handwritten signature in black ink, appearing to read 'rllr'.

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